

BOARD OF VETERINARY MEDICAL EXAMINERS

Minutes

Date: February 16, 2006

Time: 9:00 a.m., C.S.T.

Location: Cumberland Room
Ground Floor, Cordell Hull Building
425 Fifth Avenue North
Nashville, TN 37247-1010

Members Present: Leland Davis, D.V.M., President
C. Maben Thompson, D.V.M., Secretary
Thomas Edmonds, D.V.M.
Mary Welch, D.V.M., Vice-President
Marie Gordon, Consumer Member
Ron Wilson, D.V.M., Ex-officio Member
Robbie Bell, HRB Director, Ex-officio Member

Members Absent: Jerry Wilhite, D.V.M.
Mary Ann Grell, L.V.M.T.

Staff Present: Lisa Lampley, Board Director
Rita Buckner-Shelton, Board Administrator
Nicole Armstrong, Advisory Attorney
Robert Taylor, D.V.M., Board Consultant/Inspector

A roll call vote was taken and upon determination of a quorum being present, the Board meeting was called to order by Dr. Davis at 9:28 a.m.

Approval of Minutes

After reviewing the minutes from the December 8, 2005 board meeting, Dr. Edmonds motioned to approve the minutes as presented. Dr. Welch seconded the motion. The motion carried.

Conflict of Interest Policy

Ms. Robbie Bell, HRB Director, reviewed the conflict of interest policy with the Board members.

Continuing Education Course Approval

The following request for approval of continuing education hours was received:

A request from the **Tennessee Cattlemen's Association** for approval of six (6) continuing education hours for the "Cow College, Convention and Trade Show" held on January 26 -28, 2006 in Nashville, TN.

A motion to approve the course was made by Dr. Edmonds and seconded by Dr. Welch. The motion carried.

Disciplinary Report

Ms. Lisa Lampley, Board Director, reviewed the report with the Board. The disciplinary report indicated that fifteen (15) individuals are currently being monitored for compliance with Board orders.

File Review/Ratification

Upon review, the Board moved to ratify all newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies.

Taskforce Meeting Report

Ms. Lisa Lampley, Board Director, gave a summary of the first meeting of the taskforce committee held on January 11, 2006 in Nashville, TN. This committee was formed as a result of the meeting of the Joint Legislative committee formed to study the shortage of large animal veterinarians across the state. The taskforce was formed to explore some of the issues raised by veterinarians at the meeting.

The taskforce members are as follows:

C. Maben Thompson, DVM (Board Member)
Oscar Wilson, Jr., DVM
C. Frank Locklar, DVM
Matt Povlovich, DVM
John C. Donaldson, DVM
Robbie Bell, HRB Director
Denise Moran, Director of Investigations
Lisa Lampley, Board Director

The meeting began with a general discussion regarding the reasons for the shortage of large animal veterinarians. The taskforce members then addressed areas of concern pertaining to the Board of Veterinary Medical Examiners. One of the major concerns expressed was in regards to how investigations of complaints were conducted and disciplinary action/penalties imposed on violators of rules/statutes with the main focus on violations of rules pertaining to the prescribing

of veterinary drugs. Members of the taskforce stressed the fact that their primary concern was food safety and ethics.

Ms. Moran reviewed the complaint process with the taskforce members. A discussion of ways to improve the process then followed. Dr. Wilson agreed to participate in the next investigator workshop and provide information and examples of items the investigators should inquire about and look for when conducting an investigation of a veterinarian or veterinary practice. The role of the Board of Pharmacy as pertains to veterinary prescription drugs was also discussed.

The following recommendations were made by the taskforce members:

- Respondent of complaint should remain anonymous at first review of complaint to ensure total impartiality in determination of referral or no referral for investigation.
- Refer for investigation all complaints received pertaining to the distribution/prescribing of veterinary drugs.
- Board of Veterinary Medical Examiners should adopt policy statement regarding the imposition of maximum penalties for violations of rules pertaining to the distribution of veterinary prescription drugs.
- Draft legislation and/or rules making failure to cooperate/comply with the investigative process a violation and cause for disciplinary action.
- Large animal practice and prescribing of veterinary drugs to be primary focus of next newsletter.
- Amend rules to better define/clarify what constitutes a “proper veterinarian-client-patient relationship”.
- Draft legislation that requires veterinary pharmacies to be registered with the Board of Pharmacy.
- Draft legislation making failure to cooperate/comply with the investigative process by a pharmacy/pharmacist a violation and cause for disciplinary action.

Position Statement – Distribution of Veterinary Prescription Drugs

Upon review and discussion, the board moved to adopt a position statement in regards to the distribution of veterinary prescription drugs. The prescribing, dispensing, or distribution of veterinary drugs not issued in the course of professional practice and without the existence of a proper veterinarian-client-patient relationship not only constitutes a violation of the Practice Act and Regulations but is a substantial threat to the health, safety and welfare of the client and/or the public. The Board of Veterinary Medical Examiners will impose disciplinary action including the assessment of maximum Type A civil penalties in the amount of \$1,000.00 per prescription written in violation of rules/statutes.

Director’s Report

Ms. Lampley informed the Board that there still had been no notification received regarding the replacement of Dr. Wilhite whose term on the board expired 08-01-05. The Veterinary Technician National Examination (VTNE) was administered on January 20, 2006 to eight (8) candidates. There were eighty-two (82) applicants for licensure as a veterinarian taking the North American Veterinary Licensing Examination (NAVLE) through our board. Sixty-nine (69) candidates received a passing score on the exam and twelve (12) candidates failed to pass

the exam. It was reported that the process of issuing Request for Proposals (RFP) for veterinary facility and animal control agency inspectors in the three grand regions of the state has begun. The current contract expires on June 30, 2006. The new contract will have an effective period of July 1, 2006 through June 30, 2009. A letter has been mailed to licensees informing them of the upcoming process. The RFP is tentatively scheduled to be mailed on March 1, 2006. The 2006 Music City Veterinary Conference is scheduled for March 17-19, 2006. The Tennessee Veterinary Medical Association (TVMA) has provided space for the board and all board members are invited to join Ms. Lampley at the table. A Board Member Orientation training session is scheduled for March 23, 2006 and any member who has not previously attended the training is encouraged to attend. The anticipated move date of Health Related Boards to the new location at Metro Center is now March/April, 2006.

Licensure Applicant Interview

Timothy Dalpiaz, DVM

Dr. Dalpiaz reappeared before the board. Dr. Dalpiaz appeared before the Board for an interview at the Board's December 8, 2005, meeting. The Board voted at that time to grant Dr. Dalpiaz a license if specified conditions were met. The conditions were imposed by the Board as a result of Dr. Dalpiaz's admission that he had been practicing veterinary medicine in Tennessee without a license since June 2003. One of the conditions of licensure was the submission of documentation of 2004 & 2005 continuing education hours prior to the issuance of the license. (Dr. Dalpiaz had stated during his interview that he had obtained the required continuing education hours for 2004 & 2005).

When Dr. Dalpiaz submitted documentation of the continuing education, it was noted that some of the submitted continuing education hours obtained were not approved courses, and therefore did not qualify for credit under the Board's rules. Other courses were taken by Dr. Dalpiaz under the name of another veterinarian; therefore, Dr. Dalpiaz could not receive credit for those courses. Ms. Armstrong advised the Board that if the Board determined that Dr. Dalpiaz did not meet the conditions of licensure set by the Board, then his application for licensure must be denied. Dr. Davis and Dr. Welch inquired if additional conditions could be placed on Dr. Dalpiaz; Ms. Armstrong responded that the only available procedure would be to deny license, and Dr. Dalpiaz would have the opportunity to request a contested case hearing to contest the denial.

A motion to deny the license was made by Dr. Welch, seconded by Dr. Thompson. The motion carried.

Clayborne K. Glenn, DVM

Dr. Glenn appeared before the board for an interview pursuant to the board's request. Dr. Glenn answered "yes" to the application question pertaining to the denial of a state or federal controlled substance certificate. After questions and discussion, Dr. Welch made a motion to grant licensure. Dr. Thompson seconded the motion. The motion carried.

Amber Lynn Winters, CAET

Ms. Winters appeared before the board for an interview pursuant to the board's request. Ms. Winters answered "yes" to conviction of a felony or misdemeanor other than a minor traffic offense. The application also contained information regarding the possible performance of euthanasia without certification. After questions and discussion, Dr. Edmonds made a motion, seconded by Dr. Thompson, to grant certification. The motion carried with Drs. Davis and Welch opposed.

Legislative Report

Ms. Lampley reviewed the status of the following legislation:

HB2464 – Transfers Board of Veterinary Medical Examiners
from Department of Health to the Department of Agriculture

HB2533 – Excludes artificial insemination on equines, swine, or
bovine animals from the scope of practice of veterinary medicine

SB2507 – Extends Board of Veterinary Medical Examiners until
June 30, 2010

HB2759 - Transfers Board of Veterinary Medical Examiners
from Department of Health to the Department of Agriculture

In regards to HB2533 pertaining to artificial insemination, the board made the position statement that this issue was being addressed through the existing rule amendment procedures and that there was no need for legislation at this time.

In regards to HB2759 which transfers the board from the Dept. of Health to the Dept. of Agriculture, the board made the position statement that they are formally opposed to the move.

Petition for Declaratory Order Hearing

Pursuant to the granting of the request for the consideration of a petition for a Declaratory Order at the December 9, 2004 meeting, Ms. Bonnie Cady appeared before the board. Intervening parties in the petition were Jeremy Carlton, Steve Beech, and the Tennessee Farm Bureau Federation. Ms. Cady was represented by her attorney, Mr. Frank Scanlon. The Tennessee Farm Bureau Federation was represented by Mr. Dan Elrod, Attorney. Mr. Carlton and Mr. Beech were represented by Ms. Lynda Hill, Attorney. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. The proceedings were presided over by Administrative Judge Joyce Grimes Safley.

Ms. Cady's petition for declaratory order contended that the definition of the "scope of practice of veterinary medicine" as defined in Tenn. Comp. R. & Regs. 1730-1-.02 is inconsistent with, and broader than, the statutory definition of the "practice of veterinary medicine" set forth at T.C.A. 63-12-103(9) and, therefore, invalid.

Ms. Cady testified on her own behalf. Ms. Hill presented testimony from Mr. Jeremy Carlton, breeding manager, of Saddlecrest Farms, regarding the artificial insemination of equine by non-veterinarians. Mr. Elrod presented testimony from Mr. John Woolfolk, Associate Director of Commodity Activities for the Tennessee Farm Bureau Federation, regarding the artificial insemination of cattle by non-veterinarians. Mr. Elrod also presented testimony from Dr. Gary Heusner, a Professor of Animal Sciences at the University of Georgia, regarding the artificial insemination of equine by non-veterinarians.

Ms. Armstrong presented the Department of Health's position in this matter and stated that Tenn. Comp. R. & Regs. 1730-1-.02 was promulgated in accordance with the Board's authority to promulgate rules to regulate the practice of veterinary medicine in Tennessee and that the rule was not inconsistent with, or contrary to, the statutory definition of the "practice of veterinary medicine".

After discussion and questions from the Board, Dr. Thompson made a motion, seconded by Dr. Welch, to accept the state's Proposed Declaratory Order which established the conclusions of law that Tenn. Comp. R. & Regs. 1730-1-.02 was promulgated in accordance with the Board's authority to promulgate rules to regulate the practice of veterinary medicine in Tennessee; that the rule was neither broader than nor inconsistent with the definition of the "practice of veterinary medicine" in T.C.A. 63-12-103(9) or the definition of the "practice of veterinary medicine" in T.C.A. 63-12-103(17); and was therefore a valid rule of the Board. The motion carried, with Drs. Edmonds and Davis opposed.

Rules Status Report

At the December 8, 2005 board meeting a discussion was held regarding the proposal of rule amendments which would define "indirect supervision" and "accepted livestock management practices". The board requested that language regarding this issue be developed and presented at the February, 2006 meeting. Dr. Allan Holladay, DVM, President, Tennessee Veterinary Medical Association (TVMA), Dr. Matt Povlovich, DVM, and Dr. Frank Locklear, DVM, addressed the board with proposed rule amendments regarding this issue.

After review and discussion, a motion was made to authorize a rulemaking hearing pertaining to accepted livestock management practices and stays and reconsiderations of disciplinary orders. The proposed rule amendments define as accepted livestock management practices those limited services which may be performed by persons who are not licensed as veterinarians and the type of supervision required for the provision of these services. The motion carried. A hearing is scheduled to take place on April 17, 2006. Notices of rulemaking hearings are posted on the Internet and may be accessed via the Department of Health's home page.

Adjournment

There being no further business to discuss, Dr. Edmonds made a motion, seconded by Dr. Welch, to adjourn. The motion carried and the meeting was adjourned at 4:10 p.m.

C. Maben Thompson, DVM, Secretary

Date

